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75127 7590 01/04/2011 KING & SPALDING LLP (CITI CUSTOMER NUMBER) ATTN: Eric Sophir 1700 PENNSYLVANIA AVENUE, NW SUITE 200 WASHINGTON, DC 20006				
EXAMINER HAMILTON, LALITA M				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPH C. KAWAN, RONALD KING-HANG CHU,
CHARLES GOLVIN, and PETER TOMPKINS

Appeal 2009-015427
Application 09/588,902
Technology Center 3600

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
ANTON W. FETTING, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Joseph C. Kawan et al. (Appellants) seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 1-15, 17-19, 22-24, and 28. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.²

THE INVENTION

This invention is “methods and systems for facilitating financial transactions over various networks.” Specification 1:18-17.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A method for facilitating a financial transaction over a first network comprising:
 - issuing a locked programmable memory device to a first user, wherein the programmable memory device contains at least the following for formulating payment instructions, network address instructions for an issuer of the programmable memory device, a first user's financial account information, and an encryption program;
 - unlocking the programmable memory device at the first user with a first user's predetermined personal identification number;
 - programming the programmable memory device at the first user to include a first user

² Our decision will make reference to the Appellants' Appeal Brief (“Br.,” filed Mar. 12, 2009) and the Examiner's Answer (“Answer,” mailed Sep. 7, 2009).

identification profile and a private/public key pair using the encryption program;

issuing software to a second user, wherein the software includes payment information of the second user including a second user's financial account information and further wherein the software is capable of interacting with the programmable memory device over the first network;

forming a connection between the programmable memory device and the software; receiving across the connection the payment instructions;

adding the second user's payment information to the payment instructions;

routing the payment information and the payment instructions to an issuer utilizing the network address instructions; and

receiving the payment information and the payment instructions, wherein the issuer is capable of accessing at least one of the first user's financial account information and a second user's financial account information.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Sehr

US 2001/0018660 A1

Aug. 30, 2001

The following rejections are before us for review:

1. Claims 1-15, 17-19, 22-24, and 28 are rejected under 35 U.S.C. §102(e) as being anticipated by Sehr.

ISSUES

The first issue is whether claim 1 is anticipated by Sehr under 35 U.S.C. § 102(e). Specifically, the issue is whether Sehr describes the step of “routing the payment information and the payment instructions to an issuer utilizing the network address instructions.” The rejection of claims 2-15 and 17-19 under 35 U.S.C. § 102(e) also turns on this issue.

The second issue is whether claim 22 is anticipated by Sehr under 35 U.S.C. § 102(e). Specifically, the issue is whether Sehr describes the steps of “storing the payment information from the programmable memory device in a memory portion of the terminal for future processing of the financial transaction” and “uploading the payment information to the issuer of the programmable memory device for further processing and settlement of the financial transaction.” The rejection of claims 23 and 24 under 35 U.S.C. § 102(e) also turns on this issue.

The third issue is whether claim 28 is anticipated by Sehr under 35 U.S.C. § 102(e). Specifically, the issue is whether Sehr describes “a programmable memory device issued to a second user for storing information related to the financial transaction.”

FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Sehr describes an event organizer which is a corporate entity or individual that organizes the entertainment and operates the stadium. Sehr [0026].
2. Sehr describes that the event organizer employs the means to compile and authenticate the cards and that the event organizer communicates the required information to the Admissions Center. *See* Sehr [0032] and [0033]
3. Sehr describes an admissions center, which is a computerized means for the automated issuance of visitor cards. Sehr [0027] and [0040].
4. Sehr describes that, along with traditional paper/plastic bank cards, electronic payment points can be added to the visitor card. Sehr [0049].
5. Sehr describes the event organizer as providing or underwriting the payment points. Sehr [0049]. *See also* Sehr [0086] (“[t]he payment points, which are sold or provided to the visitor by the event organizer, . . .”).
6. Sehr states:

At the same time, the mobile vendor can also forward the electronic payment received from the visitors to the merchant database or financial institution, as well as to the event organizer underwriting the payment points. To make sure that the electronic money or points will be deposited only to the vendor’s account, the vendor can attach a security key to the forwarded payment information.

Sehr [0063].
7. Sehr describes the event organizer as redeeming the payment points for the merchant. Sehr [0049]. *See* Sehr [0105] (“If

electronic payment points were used for the purchase, the points will be forwarded to the non-financial institution who then reimburses the provider.”)

8. Sehr describes that the vendor/merchant system can load the payment in real-time or as an accumulation of payments at a later time. Sehr [0102].
9. Sehr describes the vendor/merchant system has a database scheme (310) that stores data and information related to transactions, including payment information, performed between the vendor and visitors. Sehr [0057]-[0058]. *See also* [0030] and [0105].

ANALYSIS

Claims 1-15 and 17-19

The Appellants argued claims 1-15 and 17-19 as a group. Br. 7-8. We select claim 1 as the representative claim for this group, and the remaining claims 2-15 and 17-19 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2010).

Claim 1 recites “routing the payment information and the payment instructions to an issuer utilizing the network address instructions.” The Appellants argue that the Admissions Center in Sehr is the issuer of the programmable memory device and that paragraph [0024], cited by the Examiner, does not describe routing payment information or instructions to the Admissions Center. Br. 7-8. The Appellants argue that instead the payment information is routed to the Service Providers, such as banks or financial institutions. Br. 7.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

We disagree with the Appellants. First, we find that the event organizer is the claimed “issuer” and that the admission center is the means by which the event organizer issues the card. *See* FF 1-5. We note that a definition of the verb “issue” is “is to distribute or circulate.” *See Webster’s II New Riverside University Dictionary* 647 (1984) (Entry for “issue”). The event organizer is the entity that puts the visitor cards into circulation (*see* FF 2) and can reasonably be considered the claimed “issuer.” Next, Sehr describes that, as well as traditional debit/credit forms of payment, the visitor cards can be loaded with electronic payment points, underwritten by the event organizer. FF 4-5. Sehr describes that if the electronic payment points are used, the payment information is forwarded to the event organizer (i.e. the issuer) for redemption. FF 6.

Accordingly, we find that the Appellants have not overcome the rejection of claim 1, and claims 2-15 and 17-19, dependent thereon, under 35 U.S.C. § 102(e) as being anticipated by Sehr.

Claims 22-24

The Appellants argued claims 22-24 as a group. Br. 8-10. We select claim 22 as the representative claim for this group, and the remaining claims 23 and 24 stand or fall with claim 22. 37 C.F.R. § 41.37(c)(1)(vii) (2010).

Claim 22 recites “storing the payment information from the programmable memory device in a memory portion of the terminal for

future processing of the financial transaction” and “uploading the payment information to the issuer of the programmable memory device for further processing and settlement of the financial transaction.” The Appellant argues that Sehr does not describe these steps. Br. 8-9.

As to the step of storing the payment information, we disagree with the Appellant. Sehr describes that the vendor/merchant system includes a database scheme, which stores payment information related to transactions performed between the vendor and visitors. FF 8. *See also* FF 9.

As to the step of uploading the payment information, for the same reasons as discussed above with regards to claim 1, we find that Sehr anticipates this step.

Accordingly, we find that the Appellants have not overcome the rejection of claim 22, and claims 23 and 24, dependent thereon, under 35 U.S.C. § 102(e) as being anticipated by Sehr.

Claim 28

Claim 28 recites “a programmable memory device issued to a second user for storing information related to the financial transactions.” The Appellants argue the Sehr does not disclose issuing a visitor card (11) to a vendor, merchant, or other party besides a visitor and, therefore, Sehr does not describe this limitation. Br. 10.

We see nothing in claim 28 that requires that the programmable memory device issued to a second user be Sehr’s visitor card or the same type (i.e. visitor card) as the recited programmable memory device issued to the first user. The Examiner cites paragraph [0057] of Sehr’s as describing this limitation. Answer 8. This passage and the following paragraph

describes that the vendor/merchant system includes a database scheme, which stores data and information related to transactions performed between the vendor and visitors. FF 8. The Appellants do not argue that the vendor/merchant system with the database scheme does not anticipate this limitation.

Accordingly, we find that the Appellants have not overcome the rejection of claim 28 under 35 U.S.C. § 102(e) as being anticipated by Sehr.

DECISION

The decision of the Examiner to reject claims 1-15, 17-19, 22-24, and 28 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

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